



April 20, 2018

Freedom of Information Officer
Land and Chemicals Division
U.S. EPA, Region 3
1650 Arch Street
Philadelphia, PA 19103

Re: *Follow Up to FOIA Request EPA-R3-2017-008242*
Union Carbide Corporation, Institute, West Virginia

To whom it may concern:

I am writing to request that your office renew its search for emails responsive to the Freedom of Information Act ("FOIA") request referenced above. In your letter to my colleague Nik Taylor dated February 22, 2018, you provided copies of approximately 20 emails. (As used herein, the word "email" or "emails" refers to individual emails and emails consisting of or including replies to and/or forwards of prior emails.) We appreciate the assistance provided by your office, but believe there are many additional emails responsive to my FOIA request that have not been produced or described in the log of documents withheld from production on the basis of a FOIA exemption.

As you know, the FOIA request sought records relating to the Union Carbide Corporation facility located in Institute, West Virginia (hereinafter referred to as the "Facility"). The Facility is a 433-acre industrial park that has been in operation since 1943. In or about November 1984, the EPA initiated a Resource Conservation and Recovery Act ("RCRA") Corrective Action ("CA") permitting action to identify and remediate onsite solid waste management units and areas of concern. Six years later, in December 1990, the EPA issued a RCRA CA permit that went into effect on January 22, 1991 and which currently remains in effect.

Documents produced in response to the FOIA request as a result of on-site file reviews indicate that numerous environmental investigations have been conducted at the Facility (and its surrounding environs) over the last 30 years, including but not limited to investigations that occurred in 1992, 1995, 1999, 2001, 2003, 2005, 2007, 2008, 2009, 2010, 2011, 2012, and 2013. Over the course of these investigations, the EPA would have created and/or received a myriad of reports and memoranda. In addition, the EPA would have been called upon to approve various remedial action objectives and interim remedial measures. We believe that many, if not all, of these documents and decisions would have been communicated via email – particularly documents and decisions made within the last 20 years.

Despite the more than 30-year duration of EPA's involvement with the Facility and the scope and magnitude of the investigations that have occurred in connection with the RCRA CA permit, your office only provided copies of approximately 20 emails. Moreover, these emails only cover a period of three years (i.e., 2015 through 2017) and only cover eight days within that period. In particular, your office produced one email that was created on June 12, 2015 and four emails that were created on October 12-13, 2016. Of the emails created in 2017, one was created on February 27, 2017; two were created on

April 25, 2017; nine were created on April 26, 2017; two were created on April 27, 2017; and one was created on June 9, 2017.

Although your office provided an index of documents withheld on the basis of FOIA exemptions, none of the 12 documents identified in the index are emails. Rather, the documents identified in the index appear to be documents that would have been reviewed (or potentially subject to review) in connection with the prior on-site file reviews. The documents identified in the log also appear to be related to an EPA enforcement proceeding that occurred between 1994 and 1995.

In short, we believe there must be far more than 20 emails covering eight days, given the many years the EPA RCRA CA permit has been in place, the number of EPA employees over those years responsible for monitoring compliance with the permit, and the many investigations that have occurred under the permit.

By this letter, I am asking you to conduct a new search of EPA emails potentially responsive to the above-referenced FOIA request. Please use the following searches in your review:

- East and Property and Groundwater
- Corrective Measures and Institute
- Corrective Measure and Institute
- CMS and Institute
- CMP and Institute
- Ray Power Building
- Mahfood and Institute

In addition, please ensure that the accounts of the following EPA employees are included in the review: Luis Pizarro, William Wentworth, Erich Weissbart, Ruth Prince, Terri White, Mark Ferrell, Michael Frankel, Catherine Liberty, Dave Campbell, and Shelia Briggs-Steuteville.

I would prefer to accept the requested records via the most expeditious means—be that paper or electronic copy. History Associates agrees to pay all reasonable and standard processing fees authorized by 5 U.S.C. §552(a)(4)(A) and the applicable regulations up to \$250. Should the fees exceed this amount, please contact me with an estimate of the total costs and the volume of responsive material in order that specific expenditures beyond \$250 can be authorized. Or, should documents responsive to my request be made accessible, I am available to inspect the records myself and select the relevant documents for duplication.

I recognize that the volume of records responsive to this request may be large. I would therefore be interested in receiving documents on a rolling basis, as they become available, rather than waiting for all responsive records to clear the review process. In addition, if all or any part of this request is denied, I request a written statement regarding the reason(s) for the denial. If you determine that some portions of the requested records are exempt from disclosure, I would appreciate receiving all non-exempt portions that can be disclosed.

I look forward to receiving the requested materials. If you have any questions, please contact me at (301) 279-9697 or via e-mail at ksilvi@historyassociates.com.

Sincerely,



Kim Silvi
Historian